

## HUMAN SERVICES BOARD

# INTRODUCTION

## FINDINGS OF FACT

2. On June 19, the date of his scheduled meeting, the petitioner called his counselor to say that he had been in court that day and had been unable to attend his meeting. On

June 20, the Department sent the petitioner a letter scheduling a meeting on June 25, 2002 to discuss his missed appointment.

3. The petitioner appeared at the meeting on June 25 and admitted that he was not a party or a witness in the court case that he had attended on June 19. He stated that he had gone to court that day to offer "moral support" for a party to that case. He did not offer an explanation for his failure to have contacted VR in advance of his missing the meeting.

4. At the meeting on June 25 the Department scheduled a "conciliation" meeting with the petitioner for July 1, 2002 to discuss the issues and terms of his continuing participation in Reach Up. The Department followed up the meeting by sending the petitioner a written notice of the July 1 conciliation meeting by certified mail, which the petitioner signed for on June 26, 2002. This notice included the following warnings in bold type, prominently displayed:

It is important that we reach an agreement through this conciliation process and that you follow through with it,

or your grant will be sanctioned as explained on the back of this form.

Please be aware that missing a conciliation appointment will result in an automatic sanction.

5. The petitioner did not attend the July 1 conciliation meeting and did not call the Department. On July 10, 2002 the Department sent him a notice that effective August 1, 2002, his RUFA benefits would be reduced by \$75 as a sanction for his noncompliance with Reach Up. The petitioner appealed this decision on July 18, 2002, and the sanction was not imposed pending the resolution of the fair hearing.

6. While his fair hearing was pending, the petitioner contacted VR and began participation in the program. As a result of his successful participation, the sanction was lifted effective September 1, 2002.

7. At the hearings in this matter held on September 26 and October 24, 2002, the petitioner alluded to medical problems he was having in June and July that kept him from remembering meetings. However, the only medical evidence relating to such problems are separate physical and mental health evaluations of the petitioner done for VR in August 2002. Although both refer to "chronic pain, depression and anxiety", neither provides any basis whatsoever to conclude

that the petitioner had any medical basis excusing his failure to attend meetings with VR and Reach Up.

ORDER

The Department's decision is affirmed.

REASONS

Included in the "types of noncompliance" in the Reach Up regulations is the failure or refusal to "attend or participate fully in (Reach Up) activities." W.A.M. § 2370.1. The regulations include "conciliation" as a process and activity to attempt to resolve problems concerning compliance with Reach Up participation. W.A.M. §§ 2371 *et seq.* Section 2371.4 of the regulations includes the following provisions:

The conciliation process shall be determined unsuccessful when the individual . . . fails without good cause to respond to one written notice of a scheduled conciliation conference

. . .

When resolution of the conciliation is unsuccessful, the case manager begins the process necessary to apply the appropriate sanctions. . .

W.A.M. § 2372 includes the following:

If a participating adult, including a minor parent, fails to comply with services component requirements, the department shall impose a fiscal sanction by reducing the financial assistance grant of the sanctioned adult's family. . .

The initial (i.e., the first three months) sanction amount is \$75 a month. W.A.M. § 2372.2.

Under the regulations an individual can "cure" a sanction by complying with all applicable service components for a period of two consecutive weeks. (See W.A.M. § 2373.12.) As noted above, and to his credit, the petitioner was able to do this effective September 1, 2002. Therefore, this appeal concerns the sanction only for the month of August 2002. More precisely, because the sanction was never actually implemented due to the petitioner's request for a fair hearing, the issue is whether the petitioner should be considered to have been overpaid \$75 (the amount of the sanction) for the month of August.

As noted above, the petitioner did not establish any good cause for his failure to attend his July 1, 2002 conciliation meeting. The regulations are clear that failure to attend even one conciliation meeting (which is scheduled only after prior incidents of noncompliance) results in the imposition of a sanction to the participant's RUFA grant. Under the above regulations the Department's decision that the petitioner was subject to a sanction due to his failure to attend that meeting appears to be correct. Therefore, inasmuch as the Department's decision in this matter was in accord with the

pertinent regulations, it must be affirmed. 3 V.S.A. §  
3091(d), Fair Hearing Rule No. 17.

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